

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	
CLARENCE GRENDAHL,)	
)	CASE NO. BK05-43402
Debtor(s).)	
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CADIZ, L.L.C., a Nebraska)	A05-4071
limited liability company,)	
)	
Plaintiff,)	4:05CV3179
)	
vs.)	CH. 7
)	
CLARENCE GRENDAHL and MICHELLE)	
GRENDAHL, a/k/a MICHELLE KOBZA,)	
)	
Defendants.)	

REPORT & RECOMMENDATION

Hearing was held in Lincoln, Nebraska on November 9, 2005, on the plaintiff's motion for withdrawal of the reference (Fil. #3) and resistance by the defendant Michelle Grendahl (Fil. #8). Stanton Beeder appeared for the plaintiff, David W. Rasmussen appeared for Clarence Grendahl, and Jeff Kirkpatrick appeared for Michelle Grendahl.

This adversary proceeding was originally filed as a complaint in the United States District Court for the District of Nebraska. Upon the filing of the Chapter 7 case by Mr. Grendahl, the case was transferred to the bankruptcy court for review.

The plaintiff filed a motion requesting a withdrawal of the reference of this adversary proceeding to the district court. The non-debtor defendant in the adversary proceeding has resisted the motion on the basis that it would be inappropriate to require her to defend in the district court and yet still have a pending action in the bankruptcy court against Mr. Grendahl.

In the bankruptcy case, the debtor's house was the primary asset. It has been sold, and whatever proceeds remain after delinquent child support is paid are exempt pursuant to the Nebraska homestead exemption. There will be no assets left from which Cadiz could collect a judgment and the debtor will receive a discharge.

Therefore, I hereby respectfully recommend to the United States District Court for the District of Nebraska that it withdraw the reference of this case to permit the plaintiff and the non-debtor party to proceed with their litigation in district court.

The Clerk of the Bankruptcy Court shall process this recommendation pursuant to the local court rules.

DATED: January 23, 2006

RESPECTFULLY SUBMITTED:

/s/ Timothy J. Mahoney
Chief Judge

Notice given by the Court to:
David Rasmussen
Stanton Beeder
Jeff Kirkpatrick
U.S. Trustee